

APR 15 2014

The Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, New York 12224

Dear Governor Cuomo:

This letter provides conditional approval of New York's State Integrated Workforce Plan for Title I of the Workforce Investment Act (WIA), the Wagner-Peyser Act (W-P), including the W-P Agricultural Outreach Plan, and plans for coordination with Trade Adjustment Assistance (TAA), pending the State's compliance with State Workforce Investment Board requirements outlined below by June 16, 2014. The Employment and Training Administration (ETA) received the State Plan on January 31, 2014. This letter also addresses New York's WIA waiver requests.

Plan Review and Approval

ETA has reviewed the New York State Plan in accordance with Title I of WIA, the W-P, the Trade Act (as amended), the corresponding regulations, the State Integrated Workforce Plan Requirements for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs (<http://www.doleta.gov/usworkforce/wia-planning/docs/integrated-planning-guidance.pdf>), and Training and Employment Guidance Letter (TEGL) No. 21-11, and the corresponding Change 1. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is conditionally approving the WIA Title I, W-P and TAA portions of New York's State Plan for the period July 1, 2013 through June 30, 2017, PY 2013-PY 2016, with the exceptions noted below. The annual W-P Agricultural Outreach Plan (AOP) is approved for the period July 1, 2013 through June 30, 2014.

ETA is approving the State Integrated Workforce Plan on the condition that the Governor appoint membership to the State Workforce Investment Board (SWIB) that is fully compliant with requirements in WIA section 111(b)(1) and 20 CFR 661.200. This includes the requirement that the a majority of the members of the State Board must be representatives of business (WIA section 111(b)(3)). As the State adds new SWIB members, it may also need to increase representation by business membership to maintain a business majority.

The State must appoint membership fully compliant with WIA and its regulations, and modify its State Plan to include a revised SWIB roster. The State Plan modification must be submitted to ETA at your earliest convenience but no later than June 16, 2014. The State is eligible to receive WIA formula allotments for Adult, Dislocated Worker, and Youth programs, and W-P program allotments, effective July 1, 2013 through June 30, 2017, under the condition that the information identified above is provided.

Performance Levels

Program performance goals for the PY 2013 WIA and Wagner-Peyser Act programs were reached in negotiations between the ETA Regional Administrator and the New York Department of Workforce Development. New York's goals were transmitted to the Agency in the Regional Administrator's letter dated June 21, 2013. The State must ensure that the PY 2013 final performance goals are included in the State's official copy of its Integrated Workforce Plan. ETA will incorporate these final performance goals into the Regional and National Office copies of the State Integrated Workforce Plan.

Waivers

As part of New York's State Integrated Workforce Plan, the State submitted waiver requests for waivers of statutory and regulatory requirements under WIA (copy enclosed). The State's requests for waivers are written in the format identified in WIA Section 189(i)(4)(B) and 20 CFR 661.420(c). The disposition of the State's waiver requests is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State is requesting a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of the required 50 percent employer contribution for customized training at WIA Section 101(8)(C).

The State is requesting a waiver of the required 50 percent employer contribution for customized training to permit the use of a sliding scale for the employer contribution based on the size of the business. The State is granted this waiver through June 30, 2016. Under the waiver, the following sliding scale is permitted: 1) no less than 10 percent match for employers with 50 or fewer employees, and 2) no less than 25 percent match for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent contribution) continue to apply. When determining the funding source for customized training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide customized training to individuals ages 18 and older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide customized training to dislocated workers with WIA Dislocated Worker funds. Customized training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State is requesting a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted this waiver through June 30, 2017. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide on-the-job training to individuals ages 18 and older with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State is requesting a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to allow local areas to use up to 10 percent of local Adult and Dislocated Worker funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver.

ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the State is required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) to exempt a state from the requirement to provide local workforce investment area incentive grants.

The State is requesting a waiver of the requirement to provide local workforce investment areas incentive grants to reward regional cooperation, local coordination of activities, and exemplary performance. The State is granted this waiver through June 30, 2015.

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)) to exempt the state from the requirement to conduct evaluations.

The State is requesting a waiver of the requirement to conduct evaluations of workforce investment activities for adults, dislocated workers, and youth in order to establish and promote continuous improvement of the statewide workforce investment system. The State is granted this waiver through June 30, 2015.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State is requesting a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted this waiver through June 30, 2017.

This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program.

Workforce Investment Act Standardized Record Data system (WIASRD) item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

The State is requesting a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the State to discontinue the collection of the following Workforce Investment Act Standardized Record Data (WIASRD) elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The State is granted this waiver through June 30, 2017.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State is requesting a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older and out-of-school youth program participants. The State is granted this waiver through June 30, 2017. Under this waiver, the State can use ITAs for older and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITAs are reflected in the individual service strategies for these youth.

Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State is requesting a waiver of the requirement for competitive procurement of service providers for three youth program elements. The State is granted this waiver through June 30, 2017. Under this waiver, the State is permitted to allow its American Job Centers or partner agencies to directly provide the youth program elements of supportive services, follow-up services, and work experience. In utilizing this waiver for these elements, the State and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

Waiver to provide program design flexibility in serving youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.

The State has requested a waiver of certain provisions under WIA Sec. 129(c) and 20 CFR 664 to allow Local Workforce Investment Area (LWIA) staff increased flexibility in program design. Through this waiver, the State will be able to provide program design

flexibility in serving youth who participate in subsidized summer youth employment activities that utilize TANF funds and are co-enrolled in WIA-funded youth programs.

The requested waiver is approved. Specifically, the State is granted a waiver of statutory and regulatory provisions as follows:

- Waiver of the requirement at WIA section 129(c)(2)(I) and 20 CFR 664.450(b) to provide a minimum of 12 months of follow-up services, to allow local areas to provide follow-up services with WIA Youth funds as deemed appropriate for such youth participants.
- Waiver of the requirement at WIA section 129(c)(1)(A) and 20 CFR 664.405(a)(1) to provide an objective assessment and the requirement at WIA section 129(c)(1)(B) and 20 CFR 664.405(a)(2) to develop an individual service strategy (ISS), to allow local areas to provide an assessment or ISS as deemed appropriate for such youth participants.

The approved waiver is effective from May 1, 2014 through September 30, 2017, and only applies to youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities and supportive services only. This waiver does not apply to WIA youth participating in program elements beyond summer employment and supportive services.

Waiver of performance measures for youth participants in summer youth employment activities and co-enrolled in TANF and WIA programs.

The State has requested a waiver of the common performance measures for youth who participate in subsidized summer youth employment activities that utilize Temporary Assistance to Needy Families (TANF) funds and are co-enrolled in WIA-funded youth programs. The requested waiver is approved and allows the State to use the work readiness indicator as the only indicator of performance for youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities. The approved waiver is effective from May 1, 2014 through September 30, 2017, and only applies to youth co-enrolled in WIA Youth and TANF programs and participating in subsidized summer youth employment activities and supportive services only. This waiver does not apply to WIA youth participating in program elements beyond summer employment and supportive services.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State is requesting a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted this waiver through June 30, 2017. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State is requesting a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted this waiver through June 30, 2017. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and are incorporated into the State Integrated Workforce Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and with the conditionally approved State Plan. In addition, as described in TEGL No. 29-11, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

ETA is committed to working with New York so that the State can execute a fully approved State Integrated Workforce Plan for PY 2014 and beyond. If you have any questions related to the issues discussed above, please contact Tim Theberge, the Federal Project Officer for New York, at (617) 788-0139 or Theberge.Timothy@dol.gov.

Sincerely,



Eric M. Seleznow
Acting Assistant Secretary

Enclosures

cc: Peter Rivera, Commissioner, NY State Department of Labor
Holly O'Brien, Regional Administrator, ETA Boston Regional Office
Timothy Theberge, Federal Project Officer for New York

From: Sewell, Valerie R (LABOR) [<mailto:Valerie.Sewell@labor.ny.gov>]

Sent: Friday, January 31, 2014 4:48 PM

To: WIA.PLAN

Cc: O'Brien, Holly - ETA; Theberge, Timothy - ETA; Coleman, Karen (LABOR)(MOVI); Forezzi, Daphne (LABOR); Joseph, Anthony (LABOR)(MOVI)

Subject: New York WIA-WP Strategic Plan

A copy of New York State's *Integrated Workforce Plan for Workforce Investment Act Title I/Wagner-Peyser Act and Department of Labor Workforce Programs for PY 2013 through 2016* may be accessed at the following URL:

<http://labor.ny.gov/workforce/swib/swibplan.shtm>

The State Workforce Investment Board (SWIB) approved this plan for submittal at the January 29, 2014 SWIB meeting.

NYS DOL certifies that no changes will be made to this plan unless ETA gives prior approval for such changes.

If you encounter any problems with opening the plan file or accessing the state plan on our website, please contact Ms. Valerie Sewell, at (518) 485-8539.

Workforce Investment Act Waiver Request

Waiver of the Requirement for a 50 Percent Employer Match for Customized Training, to Permit a Graduated Scale Match to Increase Employer Connections with the Career Center System.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

WIA Section 101(8) (C) and 20 CFR 663.715 requiring that employers receiving customized training under WIA pay a match of not less than 50 percent of the cost of the training.

Actions undertaken to remove state or local barriers

There is no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

Small- and medium-sized businesses often lack the resources to take advantage of WIA customized training. These lesser resources are further diminished by the harsh economic times. The Department's experience with incumbent worker training grants has shown that there is tremendous demand in the business community for customized training, but very little capacity, particularly for small business owners, to pay for it. The State is therefore, requesting the flexibility to apply a graduated scale for customized training as follows:

1. No less than 10% match for businesses with 50 or fewer employees; and
2. No less than 25% match for businesses with 51 – 250 employees.

For businesses with more than 251 employees, the current statutory requirements would continue to apply.

The goals of the waiver are: to increase the number of individuals receiving training services; to increase the number of businesses availing themselves of customized training services; to strengthen the labor pool by providing workers with more marketable skills; to strengthen the business community by increasing its competitiveness in the global economy; to improve the capacity of local boards to market demand-driven services; and to build beneficial relations with a greater number of businesses in the private sector. This waiver request is consistent with the New York State's WIA/Wagner Peyser State Plan, which places a strong emphasis on strengthening the business community and increasing the number of individuals who receive training through the Career Center System.

Individuals impacted by the waiver

The waiver will positively impact the WIA participants who will be receiving the training. There will also be a positive impact on the State's businesses, particularly those with 250 or fewer employees, the workforce investment system and the economy of the State.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver to Increase the Employer Reimbursement for On-the-Job Training for Small- and Medium-Sized Businesses.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

WIA Section 101(31)(B) and 20 CFR 663.700(a), 663.710(b) requiring that businesses receiving On-the-Job Training (OJT) services under WIA receive a maximum reimbursement of 50% of the newly hired employee's wages during OJT.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The requirement that businesses be allowed a maximum wage reimbursement of 50% for OJT does not provide sufficient incentive for small- and medium-sized businesses to take advantage of OJT during continued harsh economic times and an uneven recovery. Therefore, New York State is requesting a waiver of this requirement, and approval to allow a graduated scale for OJT reimbursement as follows:

1. Up to 90% for businesses with 50 or fewer employees;
2. Up to 75% for businesses with 51 – 250 employees; and
3. Up to 50% (current statutory requirement) for businesses with 251 or more employees.

The goals of the waiver are: to increase the number of individuals receiving OJT; to accelerate businesses hiring through OJT; to strengthen the labor pool by providing unemployed workers with marketable skills; to strengthen the business community by increasing its competitiveness in the global economy; to improve the capacity of local boards to market demand-driven services; and, to build beneficial relations with a greater number of businesses in the private sector. This waiver request is consistent with New York State's WIA/Wagner Peyser State Plan, which places a strong emphasis on strengthening the business community and increasing the number of individuals who receive training through the Career Center System.

Individuals impacted by the waiver

The waiver will accelerate hiring and thus positively impact the population of unemployed workers who are hired through OJT in terms of skill acquisition and family income. In addition, the waiver will have a positive impact on the State's participating businesses with 250 or fewer employees, the State's workforce, and the State's economy.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at:

<http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver to Permit local areas to request the use of up to 10 percent of the local area's formula allocation funds for adult and dislocated workers to support local incumbent worker training programs.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

Language that limits the authority to provide the incumbent worker training identified in WIA Section 134(a)(3)(A)(iv)(I) to the State.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The waiver will allow local areas to request the use of up to 10 percent of the local area's formula allocation funds for adult, and dislocated workers to provide incumbent worker training, identified at WIA Section 134(a)(3)(A)(iv)(I). The adult funds and dislocated worker funds may only be used for incumbent worker training as part of layoff aversion.

Approval of this waiver would allow the State to provide additional funding toward incumbent worker training programs to improve job retention and avoid additional layoffs. This waiver will provide Local Boards with greater flexibility in designing and implementing incumbent worker training as part of layoff aversion, and will improve the ability of Local Boards to respond to changes within their Local Areas. It will help promote the development of local projects to improve job retention and avoid additional layoffs. In addition, this waiver will provide more customers with access to essential services that they may need, and will increase services to higher skilled and higher wage businesses, which may or may not otherwise be served by the local workforce system. Approval of this waiver would allow the State to provide additional funding toward incumbent worker training programs to improve job retention and avoid additional layoffs.

Finally, it would enhance alignment of New York State's workforce development strategies with USDOL's national strategic priorities, including enhanced integration of workforce investment systems in order to respond better to the needs of customers; and provide greater flexibility in structuring workforce investment systems.

This waiver request is consistent with New York State's WIA/Wagner-Peyser Strategic Plan, which places an emphasis on increasing access to training, expanding services and creating innovative and informed programs designed to develop and maintain a highly skilled workforce. Through this pool of highly skilled workers and incumbent worker training programs, the New York State WIA/Wagner-Peyser Strategic Plan also looks to strengthen the business community.

Individuals impacted by the waiver

The waiver will directly impact incumbent workers and their respective employers/businesses. The workers will be able to train and improve their skills and keep good jobs, which may help increase their confidence, and will allow them to compete in a more technologically sophisticated knowledge based global economy. The respective employers/businesses will, in turn, benefit from this.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

New York State will modify its current monitoring policy and procedures to include the use by local areas of 10% of their formula allocation to fund incumbent worker training programs.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver from the requirement to provide incentive grants to local areas (WIA Section 134(a)(2)(B)(iii) and 20CFR 665.200(e)).

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) requiring the provision of incentive grants to local areas.

Actions undertaken to remove state or local barriers

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The reduction to five percent in the WIA allotment for Program Year 2013 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of incentive grants to local areas. The state's reduced funds are being used to cover the following required activities:

- operating fiscal and management accountability information systems (WIA Section 134(a)(2)(B)(vi) and 20 C.F.R. 665.200(b)(1));
- submitting required reports (WIA Section 136(f));
- disseminating the list of eligible training providers for adults and dislocated workers (WIA Section 134(a)(2)(B)(i) and 20 C.F.R. 665.200 (b)(1)), and youth activities (20 C.F.R. 665.200(b)(4)), and;
- providing technical assistance to poor performing local areas (WIA Section 134(a)(2)(B)(iv) and 20 C.F.R 665.200(f)).

The estimated costs to provide incentive grants to local areas for PY2013 are approximately \$800,000. There are limited discretionary funds for PY2013, and NYSDOL cannot provide incentive grants to local areas without the proper funding. Our goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system.

Individuals impacted by the waiver

This waiver will provide the state agency with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system. This waiver will have a negative impact on local areas that have achieved exemplary performance.

United States Department of Labor,
Employment and Training Administration
WIA/W-P Waiver Request Form

Last updated 8-15-2011

OMB Number 1205-0398

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at:

<http://labor.ny.gov/workforcenypartners/tas.shtm>.

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Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

The core indicators of performance and the customer satisfaction measures required at WIA Section 136(b)(2) and (c)(1), as well as accompanying regulations in CFR 20 666.100(a) and 666.300(a).

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

New York has adopted and reports on the Common Measures, as delineated in TEGL #17-05, for federal job training and employment programs. This waiver allows New York State to operate solely under the six common measures for Adults/Dislocated Workers (Entered Employment, Employment Retention and Average Earnings) and Youth (Placement in Employment or Education, Attainment of a Degree or Certificate and Literacy and Numeracy Gains).

This request continues to support New York State's Strategic Plan to align strategy, services to customers and accountability across the workforce investment programs administered by NYSDOL. It should be noted that, effective July 1, 2006 (PY 2006), NYSDOL began integrating services across the WIA and Wagner-Peyser programs, by establishing common enrollments and exits for all participants served by these programs. This waiver request is a more direct means to advance NYSDOL's continuing effort to align strategy and services to customers, and to maintain consistent accountability across the workforce investment programs administered by the Department.

Implementation of this requested waiver would permit New York State, its 33 local workforce areas and its wide network of service providers to remain operating under a single and consistent set of performance measures, thus simplifying and integrating program design, delivery and reporting. Local Workforce Investment Boards and training providers can continue to be held accountable to a single and uniform set of performance criteria. This will also continue to eliminate barriers to comprehensive and integrated case management.

Individuals impacted by the waiver

All customers and service providers in the statewide workforce investment system could be positively impacted by the continued elimination of a dual set of performance criteria. Individual customers will continue to have access to more consistent service offerings among programs and a common set of goals.

Providers will continue to have clearer performance directives and will be able to maintain focus on designing services around one set of performance criteria, thus spending less time on duplicative tracking and reporting and more time on direct customer service.

State and local WIA and partner program staff will likewise benefit from continued facilitated case management and continuity of services among programs.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system. All other monitoring and feedback will continue as described above.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver to Permit the State and Local Areas to Discontinue the Collection of Seven of the Data Elements in Section 1 of the WIASRD for Incumbent Workers Trained With WIA Funds.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers. Under the waiver, the State would not collect the following WIASRD data elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126).

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The State seeks to reduce the data collection burden for businesses served under WIA-funded incumbent worker training programs. Many of these businesses have small office staff that are overwhelmed by the reporting, contracting, vouchering and other requirements imposed by the State. The goal of the waiver is to reduce the data collection burden for businesses being served under WIA-funded incumbent worker training programs. New York State's WIA/Wagner-Peyser State Plan places an emphasis on strengthening the business community and increasing the number of those enrolled in training, through services such as incumbent worker training programs. This waiver will allow businesses to remain focused on training for the incumbent workers and other requirements rather than data collection.

Individuals impacted by the waiver

The waiver will directly impact the staff of the businesses and the Department's reporting and recordkeeping staff.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

20 CFR 664.510 which prohibits the use of Individual Training Accounts (ITAs) for youth program participants.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The goals of the waiver are to expand service options for youth, increase program flexibility, enhance customer choice, improve staff efficiency, and decrease paperwork, tracking and dual enrollment (older youth).

The state fully realizes that importance of the ten required youth program elements and their positive and lasting impact. However, there are times in youth service delivery when use of an ITA is appropriate and necessary. A waiver allowing ITA use for youth will maximize the delivery of services by enabling staff to use this option for training if and when it is the best service option. This will also eliminate the need for dual enrollment of older youth in Adult programs and provide broader options for younger and out-of-school youth. In addition to enhancing the available service options and customer choice, the ability to provide ITAs will reduce tracking, reporting and paperwork that come with dual enrollment, resulting in a more efficient service delivery.

This waiver will allow New York State to continue to develop and strengthen, through education and training, a highly skilled workforce. This is consistent with New York State's WIA/Wagner Peyser Strategic Plan.

Individuals impacted by the waiver

The waiver will directly impact WIA eligible youth and the local Career Center staff that will develop and issue the ITAs.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver of the WIA Section 123 and 20 CFR 664.405 requirement that eligible providers of youth services be selected by awarding a grant or contract on a competitive basis for all youth activities and services.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

WIA Section 123, and 20 CFR Part 664.405 which require that eligible providers of youth services be selected by awarding a grant or contract on a competitive basis for all youth activities and services. This waiver would apply to the selection of providers for the youth elements under the following sections: section 129(c)(2)(D) paid and unpaid work experience, including internships and job shadowing, as appropriate; section 129(c)(2)(G) supportive services; and section 129(c)(2)(I) follow-up services for not less than 12 months after the completion of participation, as appropriate.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

Grant recipient/fiscal agents that are already providing framework services to youth (as allowed under 664.405) are in a better position to also provide work experience, supportive services, and follow-up services to these same youth. These grant recipients/fiscal agents have case managed the youth, so they can better identify appropriate supportive and follow-up services; they have also developed strong working relationships with public and private sector employers by administering the summer employment opportunities element of the youth program. The requirement of an additional competitive bidding process for supportive services, follow-up services, and work experience is duplicative and burdensome. This waiver would create a more streamlined and cohesive approach to service strategy development and case management by allowing these providers of youth framework services to provide personal attention to each youth on a consistent basis throughout the period of participation and beyond.

A waiver will maximize resources by allowing grant recipient/fiscal agent staff who are already providing framework services to provide work experience, supportive services, and follow-up services to youth, instead of requiring a separate competitive bidding process. Granting the waiver will allow for greater continuity of service and monitoring of progress of the youth as they move through the various services identified within their individual service strategies. This continuity of service will enhance our ability to understand the needs of each participant and better meet those needs. Granting the waiver will allow for a smoother flow of data that documents the delivery of youth services, as well as the outcomes that result from youth participation. This is possible since the organization that is providing framework

services will be in a better position to understand: where each youth is, in relationship to his or her individual service strategy; when a youth has exited a WIA service or the WIA program; and, when the period for follow-up begins. This service delivery method will foster a strong connection that will be maintained throughout the duration of program enrollment.

We also believe that defining follow-up as a framework service will support the implementation of common performance measures, since the framework service provider will be in the best position to know when a WIA youth is also participating in another partner program. Therefore, the provider will be able to make a better administrative judgment as to when program completion will trigger the time period to determine a performance outcome under the new common measures. Allowing work experience to be defined as a framework service will further support the needs of the particular youth participant. The framework service provider will be able to determine what a youth participant needs according to the participant's objective assessment and individual service strategy. This will allow a participant to have a work experience that is clearly tailored to the individual's needs and therefore further benefit the youth participant.

Providing a greater continuity of service, greater monitoring of progress, and further supporting the needs of each youth participant based on their individual service strategy will allow New York State to develop and strengthen, through education and training, a highly skilled workforce. This is consistent with New York State's WIA/Wagner-Peyser Strategic Plan.

Individuals impacted by the waiver

The waiver will directly impact WIA eligible youth and the grant recipient/fiscal agent staff who are already providing framework services to the youth.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's web-site at: <http://labor.ny.gov/workforcenypartners/tas.shtml>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtml>. A 10-day comment period was

Workforce Investment Act Waiver Request

Waiver of youth program design requirements at WIA Section 129 to apply the program design flexibility for youth aged 14-21 that are co-enrolled under TANF and WIA for Summer Employment Activities effective May 1, 2014 through September 30, 2017.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

The youth program design requirements at WIA section 129, which include:

- **Sec. 129(c)(1)(A)** Provide an objective assessment of the academic levels, skill levels, and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), supportive service needs, and developmental needs of such participant, except that a new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program;
- **Sec. 129(c)(1)(B)** Develop service strategies for each participant that shall identify an employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for the participant taking into account the assessment conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program; and
- **Sec 129(c)(2)(I)** Program Elements – The programs described in paragraph (1) shall provide elements consisting of: (I) follow-up services for not less than 12 months after the completion of participation, as appropriate.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The main goal that will be achieved through the granting of this waiver will be, to provide the local areas with the flexibility to determine both the type and level of assessment to be included in an Individual Service Strategy (ISS) for WIA eligible youth who are co-enrolled in TANF participating in a summer youth employment activity during the summer months only, and if the 12 month follow-up will be appropriate for these youth participants.

Granting local areas this program design flexibility will enhance their ability to quickly enroll, assess and place co-enrolled youth in meaningful summer employment experiences. Through this quick enrollment and placement, it is anticipated that local areas will be able to place as many youth into summer employment activities as possible. It is further anticipated that many youth at the end of the summer employment program, particularly older out-of-school youth, will be enrolled in year round services with the goal of enrolling in training and education or entering unsubsidized employment.

Individuals impacted by the waiver

Youth ages 14 to 21 will be impacted by this waiver. In addition, the LWIAs, TANF agencies, and any businesses that employ the eligible youth for the summer will also be impacted by this waiver. Based on the number of co-enrollments for the summer of 2013, the following estimates are being provided:

- An estimate of the number of youth that will be co-enrolled in the WIA youth program and in TANF summer youth employment activities each year :
 - 2,500 youth.
- An estimate of the percent of WIA Youth program enrollees that will be co-enrolled TANF summer youth employment participants only, and not participate in the WIA Youth program beyond summer:
 - It is estimated that an average of 30 percent of youth co-enrolled in WIA/TANF activities statewide will not participate in the WIA program beyond summer.

It is anticipated that in LWIAs where these TANF and local area partnerships are formed and operating, both the WIA youth funds and TANF funds will be used to pay wages for youth in the summer plus contractor costs to run and supervise the youth as appropriate. Each youth will meet the eligible criteria for their appropriate funding source (age, eligibility, etc.). If this waiver is granted, it will be left up to each LWIB to decide whether or not co-enrollment of youth participants is suitable for their particular area and population and whether or not they will elect to use the waiver.

The local areas in New York State are best positioned to make determinations and assessments of each youth participating in their summer employment program. It will also be left to each LWIB to decide their continued service plans for co-enrolled participants served under this waiver. It is anticipated however that for those out of school youth and older youth that are not expected to return to school, individual service plans and strategies will be documented and the participants will be enrolled in WIA Adult programs or provided further education and training under WIA youth funded activities.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver of indicators of performance authorized under WIA section 136 to allow use of work readiness as the sole Performance Indicator for youth aged 14-21 that are co-enrolled under TANF and WIA for Summer Employment activities effective May 1, 2014 through September 30, 2017.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

The indicators of performance authorized under WIA section 136, which include the core indicators for youth that are as follows:

- Sec. 136(b)(2)(A)(ii)(I) attainment of basic skills and, as appropriate, occupational skills;
- Sec. 136(b)(2)(A)(ii)(II) attainment of secondary school diplomas and their recognized equivalents; and
- Sec. 136(b)(2)(A)(ii)(III) placement and retention in postsecondary education or advanced training, or placement and retention in military service, employment, or qualified apprenticeships.

However, New York State has received a waiver in the past to operate under the Common Measures referenced in Training and Employment Guidance Letter (TEGL) 17-05, which are as follows:

- 5C. Youth Measures
 - Placement in Employment or Education;
 - Attainment of a Degree or Certificate; and
 - Literacy and Numeracy Gains.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The main goal that will be achieved through the granting of this waiver will be to provide the local areas with the flexibility to determine both the type and level of assessment to be included in an Individual Service Strategy (ISS) for WIA eligible youth who are co-enrolled in TANF participating in a summer youth employment activity during the summer months only, and if the 12 month follow-up will be appropriate for these youth participants.

Granting local areas this program design flexibility will enhance their ability to quickly enroll, assess and place co-enrolled youth in meaningful summer employment experiences. Through this quick enrollment and placement, it is anticipated that local areas will be able to place as many youth into summer employment activities as possible. It is further anticipated that many youth at the end of the summer

employment program, particularly older out-of-school youth, will be enrolled in year round services with the goal of enrolling in training and education or entering unsubsidized employment.

Individuals impacted by the waiver

Youth ages 14 to 21 will be impacted by this waiver. In addition, the LWIAs, TANF agencies, and any businesses that employ the eligible youth for the summer will also be impacted by this waiver. Based on the number of co-enrollments for the summer of 2013, the following estimates are being provided:

- An estimate of the number of youth that will be co-enrolled in the WIA youth program and in TANF summer youth employment activities each year:
 - 2,500 youth.
- An estimate of the percent of WIA Youth program enrollees that will be co-enrolled TANF summer youth employment participants only, and not participate in the WIA Youth program beyond summer each year:
 - It is estimated that an average of 30 percent of youth co-enrolled in WIA/TANF activities statewide will not participate in the WIA program beyond summer.

It is anticipated that in LWIAs where these TANF and local area partnerships are formed and operating, both WIA youth funds and TANF funds will be used to pay wages for youth in the summer plus contractor costs to run and supervise the youth as appropriate. Each youth will meet the eligible criteria for their appropriate funding source (age, eligibility, etc.). If this waiver is granted, it will be left up to each LWIB to decide whether or not co-enrollment of youth participants is suitable for their particular area and population and whether or not they will elect to use the waiver.

The local areas in New York State are best positioned to make determinations and assessments of each youth participating in their summer employment program. It will also be left to each LWIB to decide their continued service plans for co-enrolled participants served under this waiver. It is anticipated however that for those out of school youth and older youth that are not expected to return to school, individual service plans and strategies will be documented and the participants will be enrolled in WIA Adult programs or provided further education and training under WIA youth funded activities.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtml>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver of WIA Section 133(b)(4) and 20 CFR Part 667.140 to increase the funds transfer limit between WIA Adult and Dislocated Worker Programs to 50 Percent.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

WIA Section 133(b)(4) and 20 CFR Part 667.140 to increase the funds transfer limit between WIA Adult and Dislocated Worker Programs.

The State Board requests approval to transfer up to 50 percent of Adult and Dislocated Worker formula funds.

Actions undertaken to remove state or local barriers

There is no State or local statutory or regulatory barrier to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

- Provide increased responsiveness to changes in the Local Areas labor markets and meet the needs of their local communities.
- Provide greater flexibility in redirecting resources where demand for services is greatest.
- Improve the ability to design programs and provide targeted assistance in response to customer needs.
- Improve the ability to respond to employer needs for workers trained in employer-specific skills.

Individuals impacted by the waiver

This waiver will directly impact all WIA-eligible Adult and Dislocated Workers, as well as business customers.

Process of monitoring

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected

United States Department of Labor,
Employment and Training Administration

WIA/W-P Waiver Request Form

Last updated 8-15-2011

OMB Number 1205-0398

Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at:
<http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver from the requirement to conduct evaluations (WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)).

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) requiring the conduct of evaluations of workforce investment activities for adults, dislocated workers, and youth.

Actions undertaken to remove state or local barriers

There are no state or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The reduction to five percent in the WIA allotment for Program Year 2013 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations. The state's reduced funds are being used to cover the following required activities:

- operating fiscal and management accountability information systems (WIA Section 134(a)(2)(B)(vi) and 20 C.F.R. 665.200(b)(1));
- submitting required reports (WIA Section 136(f));
- disseminating the list of eligible training providers for adults and dislocated workers (WIA Section 134(a)(2)(B)(i) and 20 C.F.R. 665.200 (b)(1)), and youth activities (20 C.F.R. 665.200(b)(4)), and;
- providing technical assistance to poor performing local areas (WIA Section 134(a)(2)(B)(iv) and 20 C.F.R 665.200(f)).

The estimated costs of evaluations for PY2013 are approximately \$250,000. There are limited discretionary funds for PY2013, and NYSDOL cannot conduct evaluations without the proper funding. Without conducting evaluations of workforce investment activities for adults, dislocated workers, and youth, New York State would not be able to ensure the continuous improvement of such activities to achieve high-level performance and high-level outcomes from the workforce system.

Our goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system.

Individuals impacted by the waiver

This waiver will provide the state agency with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system. All other monitoring and feedback will continue as described above.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at:

<http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver of the regulations at 20 CFR 663.530 of the time limit on the period of initial eligibility for training providers.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

Under this waiver, the State will be allowed to postpone the determination of subsequent eligibility of training providers. NYSDOL is requiring providers to provide outcome data effective in 2013, but we anticipate that there will be gaps in the data collected making it difficult to make any meaningful determination regarding subsequent eligibility. In the interim, NYSDOL will analyze the data that is provided by providers to identify systemic gaps. In addition, NYSDOL is working with the State Education Department (SED) and the State University of New York (SUNY) to examine options for administratively tracking key data elements across program databases.

This waiver will ensure that the State Eligible Training Provider List (State ETPL) remains robust during this period of increased emphasis on training. The State ETPL currently has over 865 provider locations, of which 443 are post-secondary degree providers (i.e. colleges). These provider locations offer over 5,519 different training programs. Therefore, approval of this waiver will allow New York State to be in compliance with WIA Section 122 and 20 CFR 663.530 while maintaining a State ETPL that provides a robust range of customer choice during a period of increased demand for training. New York State's WIA and Wagner-Peyser Plan places an emphasis on increasing the level of training services provided through the One-Stop system.

This waiver request is consistent with New York State's PY 2013 – 2016 WIA/Wagner-Peyser Strategic Plan, which places an emphasis on increasing access to training.

Individuals impacted by the waiver

Approval of this waiver request will not have any material negative impacts, and will have material positive impacts on training providers, workforce investment boards, local staff, and One-Stop customers by removing an administrative burden which limits customer choice.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue an electronic notice and a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's web-site at:

<http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.

Workforce Investment Act Waiver Request

Waiver of the language at WIA Section 134(a)(1)(A) to permit the use of up to 20% of the funds reserved for statewide rapid response activities to support allowable statewide activities.

Date: 01/31/2014

State: New York State

Agency: New York State Department of Labor

Statutory and/or regulatory requirements to be waived

Waiver of the language limiting the authority to provide the activities at WIA Section 134(a)(3)(A) to statewide reserve funds.

Actions undertaken to remove state or local barriers

There are no State or local statutory or regulatory barriers to implementing the proposed waiver.

Goals and expected programmatic outcomes of waiver

The reduction to five percent in the WIA allotment for Program Year 2013 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of allowable statewide workforce investment activities.

However, the State believes that it is important to provide other allowable statewide activities as listed in WIA Section 134 (a)(3)(A) and CFR 665.210. Given the reduction in Governor's discretionary funds, we will not have adequate funding to provide such activities. This makes it even more critical that the State has the ability to use a portion of the statewide rapid response funds to provide services to all jobseekers.

In addition, New York State has an extensive history of providing WIA statewide activities funding for incumbent worker training programs. New York has also used Rapid Response funds under earlier waivers to provide incumbent worker training designed to avert layoffs. Over the last nine years, through six different grant solicitations, New York State has awarded over 1800 contracts totaling \$84.5 million to train almost 100,000 incumbent workers. The feedback on these grants from the businesses, the trainees and the local areas has been overwhelmingly positive. Outcomes have included business survival, employee retention, employee promotion, wage increases, increased competitiveness in the global economy, the acquisition of transferable occupational skills, increased productivity, and decreased waste.

One frequently-funded training as part of a layoff aversion strategy has been International Organization for Standardization (ISO) standards. ISO International Standards ensure that products and services are safe, reliable and of good quality. For business, they are strategic tools that reduce costs by minimizing

waste and errors and increasing productivity. They help companies to access new markets, level the playing field for developing countries and facilitate free and fair global trade.

Manufacturers are told by their customers that they must become ISO certified or they will be replaced by firms with that certification. Faced with significant training costs and short time frames, incumbent worker training grants make it possible for them to achieve certification, maintain their customer base and avoid layoffs and closure. Maintaining the presence and health of these firms and the spending power that their employees' salaries represent have also positively impacted their local economies and prevented downsizing among other firms. Approval of this waiver would allow the State to provide additional funding toward incumbent worker training programs to improve job retention and avoid additional layoffs.

The goals of the waiver are to expand flexibility to use the funds to support:

- Incumbent Worker Training as Part of a Layoff Aversion Strategy - \$3 million
- Career Pathways for Disconnected Youth - \$1 million
- Regional Sector Initiatives - \$1 million – this could be targeted to enhance services to dislocated workers
- Incentives for Exemplary Performance - \$800,000

The reduction of available funding in the rapid response reserve will not prevent the State from fulfilling its responsibilities related to rapid response activities.

This waiver request is consistent with New York State's WIA/Wagner-Peyser Strategic Plan, which places an emphasis on increasing access to training, expanding services and creating innovative and informed programs designed to develop and maintain a highly skilled workforce. Through this pool of highly skilled workers and training programs, the New York State WIA/Wagner-Peyser Strategic Plan also looks to strengthen the business community.

Individuals impacted by the waiver

This waiver will provide the state agency with more flexibility in directing rapid response funds to those activities that best preserve basic functions and activities of the statewide workforce investment system. It will specifically impact businesses seeking to avert layoffs, disconnected youth, and dislocated workers. This waiver will also have an impact on the local areas, the staff and the customers that they serve via the Career Centers in the workforce investment system.

Process for monitoring progress in implementation

New York State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Should the waiver be granted, the Department would issue a Technical Advisory (TA) that will be disseminated to Chairpersons of Local Workforce Investment Boards, Chief Elected Officials, WIA Grant Recipients, WIA Fiscal Agents and WIA Local Area Contact Persons. The TA will also be posted on the New York State Department of Labor's website at: <http://labor.ny.gov/workforcenypartners/tas.shtm>.

Public Comment

Notice of the waiver request was posted with the State Plan on the New York State Department of Labor's website at: <http://labor.ny.gov/workforce/swib/swibplan.shtm>. A 10-day comment period was allowed. No comments were received.